

REMARKS

Claims 1-114 are pending claims. Claims 1-65 are withdrawn. Claims 66-114 are currently under consideration. Applicants respectfully request reconsideration in view of the following remarks. Issues raised by the Examiner will be addressed below in the order they appear in the Office Action.

Claim rejections under 35 U.S.C. § 102

The Office Action has withdrawn the previous 102(b) rejection in view of Applicants' arguments and Exhibits, but reapplied Wittke as a 102(a) reference against Claims 66, 67, 69-71, 73, 76, 78, 81-83, 85-88, 90, 93, 95, 98-100, 102-105, 107, 110, and 112.

Applicants hereby submit a Rule 132 Declaration by Inventor Johnsson to disqualify the Wittke reference as a prior art, thereby overcoming this rejection. Reconsideration and withdrawal of the rejection under 35 U.S.C. § 102(a) in view of Wittke are respectfully requested.

The Office Action has maintained the rejection of Claims 66, 67, 69, 71, 73, 76, 81-83, 86-88, 90, 93, 98-100, 103-105, 107, and 110 under 35 U.S.C. § 102(b) in view of Johnsson for the reason of record.

Solely to advance prosecution, and to clarify the subject matter claimed, Applicants have amended Claims 66, 69, 82, and 98 to obviate this rejection.

The original claims recite "first nucleic acid encodes a 'target fusion protein' comprising segments P1, Cub-X, and RM, in an order wherein Cub-X is closer to the N-terminus of the target fusion protein than RM, wherein P1 is the 'target protein'..." Thus, the "target fusion protein" requires Cub-X to be more N-terminal than RM in the final construct. In other words, there could be three possible configurations for the "target fusion protein":

P1-CubX-RM (configuration A)

CubX-P1-RM (configuration B)

CubX-RM-P1 (configuration C)

Johnsson at best discloses configuration (A), but never teaches or suggests configurations (B) and (C). The amended claims encompass only configurations (B) and (C), but not (A). Thus Johnsson cannot anticipate the claimed invention. Reconsideration and withdrawal of the rejection under 35 U.S.C. § 102(b) in view of Johnsson are respectfully requested.

Claim rejections under 35 U.S.C. § 103

Claims 68, 70, 84, 85, 101, and 102 are rejected under 35 U.S.C. § 103(a), as allegedly being obvious over Wittke and Johnsson, in view of Wickens (U.S. Pat. No. 5,750,667) and Stagljär (PNAS, 1998). The Office Action asserts that Wittke and Johnsson do not teach specific reporters (e.g., TRP1, CAN1, etc.), while Wickens and Stagljär teach such reporters.

Claims 72, 74, 75, 79, 80, 89, 91, 92, 96, 97, 106, 108, 109, 113, and 114 are rejected under 35 U.S.C. § 103(a), as allegedly being obvious over Wittke and Johnsson, in view of Pack (U.S. Pat. No. 6,294,351 and WO 96/13583), Rossi (PNAS, 1997), and Aronheim (MCB, 1997). The Office Action asserts that Wittke and Johnsson do not teach the use of mammalian, insect, and plant host cells, or the use of libraries with 500 or more members, while Pack, Rossi, and Aronheim teach such host cells or libraries.

Claims 77, 94, and 111 are rejected under 35 U.S.C. § 103(a), as allegedly being obvious over Wittke, Johnsson, Pack, and Rossi, in view of Inze (U.S. Pat. No. 6,710,227). The Office Action asserts that Wittke, Johnsson, Pack and Rossi do not teach the use of *A. thaliana* or *N. tabacum* host cells, while Inze teaches such host cells.

Applicants submit that, even assuming for the sake of argument that there is motivation to combine the teachings of the cited prior art, the combined teaching still fails to teach all the limitations of the claimed invention, and would lack reasonable expectation of success to arrive at the claimed invention. As argued above, Wittke is removed as a prior art per the Rule 132 Declaration, and Johnsson does not teach or suggest the amended independent claims. None of the other cited references (e.g., Wickens, Stagljär, Pack, Rossi, Aronheim, or Inze) correct the deficiency. Therefore, reconsideration and withdrawal of the rejection under 35 U.S.C. § 103(a) are respectfully requested.

CONCLUSION

In view of the foregoing amendments and remarks, Applicant submits that the pending claims are in condition for allowance. Early and favorable reconsideration is respectfully solicited. The Examiner is invited to contact the undersigned at 617-951-7000.

Applicants believe that no additional fees are due. If there are any other fees due in connection with the filing of this submission, please charge the fees to our **Deposit Account No. 18-1945**, Order No. **DFMP-P01-017**.

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Respectfully Submitted,

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